18 August 1995

MEMORANDUM FOR:

FROM: [redacted] (b)(3) (U)

SUBJECT: Mack case study

REFERENCE:

4 May 1995

The Myrna Mack Case

Summary

In September 1990, Guatemalan Myrna Mack Chang was killed near her office in Guatemala City. In February 1993, after numerous delays in the judicial process, Noel de Jesus Beteta, a member of the Presidential General Staff (PGS), was found guilty of the crime and sentenced to 30 years in prison; the ruling has been upheld on several appeals. While the alleged intellectual authors of the crime have not been tried, the most recent court ruling leaves open this possibility. The Mack family continues to seek punishment of all who were involved in the murder. (C NF)

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Key Actors

Myrna Elizabeth Mack Chang, a 40-year old anthropologist/sociologist, was stabbed 17 times and killed on **11 September 1990**. She had been researching issues affecting displaced persons in Quiche and Huehuetenango Departments and was working for the Guatemala City-based Association for the Promotion of Social Studies (AVANSCO).

À According to the US, Embassy AVANSCO may have been under the control of the rebel Guerrilla Army of the Poor (EGP) at the time of Macks death.

À Mack is widely believed to have had ties to Ricardo Falla, a Spanish Jesuit priest and author of a critical study of the Guatemalan militarys early 1980s scorched earth campaign; after Mack's death, Falla was accused by senior Army officers of being a rebel leader and ideologue and was expelled from the country. (C NF)

A **December 1991** Embassy report stated that, from the start, the Mack killing appears to have had political motives and to have been executed by the Presidential Military Staff as a counterinsurgency operation against someone suspected of having had contact with the guerrillas. This will be an acid test for the governments political will and for the ability of the

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decrepit Guatemalan judicial system to deliver justice.[Guatemala 12237, 3DEC91, C] (C NF)

Noel de Jesus Beteta, a former Army sergeant who was assigned to the Presidential General Staff's Department of Presidential Security (Archivos) at the time of Macks killing, was convicted of the murder and sentenced to 25 years (plus five years for the unrelated abuse of a minor) on **12 February 1993**. Beteta had fled to the United States in late 1990; after a Guatemalan judge ordered a warrant for his arrest in **July 1991**, the US Embassy helped locate the fugitive in Los Angeles and arranged for his extradition on **5 December 1991**. [Guatemala 12379, 5DEC91; Guatemala 12237, 3DEC91, C]

À Beteta claims he has been abandoned by the Army; he says their agreement was that he would remain silent about the "intellectual authors" in exchange for a militarily arranged and facilitated escape or even a congressional amnesty.

À According to defense attach reporting, some Army officers see Beteta as a scapegoat who was sacrificed to show the international community that Guatemalas justice system can protect and ensure human rights. (S NF)

Helen Mack Chang, founder of the Myrna Mack Foundation--a non-profit group established in **March 1993** to sponsor human rights seminars and technical workshops and to provide legal counsel for abuse victims--has been a relentless crusader for justice in her sisters murder case.

À With the support of the Archbishops Human Rights Office (ODHA), Mack continues to press for the trial of the intellectual authors of the crime--former PGS officials Gen. (retired) Edgar Godoy Gaitan, Lt. Col. Juan Valencia Osorio, and Lt. Col. Juan Oliva Carrera--whom she alleges ordered the surveillance and killing of her sister. (C NF)

Developments in the Case

The court proceeding began on **27 December 1991** with the rough equivalent of a grand jury indictment against Beteta, but it quickly ran into a series of setbacks:

À Twelve different judges were eventually excused from the case

À Jurisdiction was passed from civilian to military and then back to civilian courts

À Witnesses and court officials received anonymous threats

À The lead police investigator in the case was assassinated, although various sources later reported he was killed for unrelated reasons. (S NF)

Based in large part on the testimony of two eyewitnesses--who subsequently accepted political asylum in Canada--a conviction and sentence were finally handed down on **12 February 1993**.

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À The Embassy noted, the Beteta conviction--even though subject to appeal--is an extremely positive development. Nonetheless, Beteta was at least partially right when he said ...that the Mack murderers have yet to be convicted; all accounts agree that two attackers killed Myrna Mack, and no investigations or proceedings are currently pending against either the second assailant or the attackers superiors.[Guatemala 01874, 16FEB93, C] (C-NF)

The case then moved into the appeal process. Following an **April 1993** Appellate Court review, the Embassy noted, we share her (Helen Macks) disappointment that the court dismissed charges against Betetas superiors, but agree ...that nothing more than circumstantial evidence implicated the accused intellectual authors.[Guatemala 04882, 30APR93, C] On **23 September 1993**, Beteta and several inmates escaped from prison but were recaptured the same day.

À Embassy reporting suggested the escape was prearranged; however, most observers doubt that high-level military assistance was involved and suspect Betetas friends were behind the failed attempt. (C-NF)

Beteta unsuccessfully attempted suicide twice in **May 1994** following his well-publicized allegations that Lt. Col. Valencia Osorio had given the order to kill Myrna Mack. However, this video taped testimony, in which ex-convict Jorge Lemus asked Beteta leading questions, was widely viewed as a hoax.

À Lemus had already accused Beteta's superiors as the true authors of the Mack murder in a letter to a local newspaper in **December 1993**, and further claimed that Beteta did not plan his unsuccessful **September 1993** prison escape. The Embassy criticized Lemus self-promoting attempts to gain notoriety and did not find his allegations credible. (C-NF)

In **late-December 1994**, the appeal process was exhausted when Guatemalas Constitutional Court declined to review--and thereby confirmed--the Supreme Courts **12 February 1994** ruling that sufficient evidence existed for the case against the alleged intellectual officers to continue. Both courts, however, also ruled that the executive branch could not be compelled to turn over its files on the case. Helen Mack alleges such files exist and that they would prove that Beteta acted under orders, but the Guatemalan Government and Army claim all relevant documents have been submitted to the courts. The current De Leon administration, has not made any effort to pursue investigations or a trial of the alleged "intellectual authors."

À A **March 1995** Minugua (UN Mission for Guatemala) report hinted at the possibility of a government coverup in the Mack case, finding irregularities in the judicial handling of the case and a lack of initiative on the part of competent organs (which) amounts to a denial of the right to justice.[Guatemala 02118, 15MAR95, C] (C-NF)

Current Status

Helen Mack and the ODHA intend to pursue their claim against the alleged "intellectual authors" behind Myrna Macks murder, according to Embassy reporting. Although Embassy officials continue to pressure the government on this case, they have limited leverage over the Army, which is unlikely to change its story or contribute to a credible investigation of the

accused officers. The Embassy also notes that, the finding that the case against the alleged intellectual authors can continue is an historic one ...nonetheless, evidence may be difficult to come by.[Guatemala 00061, 1JAN95, C]

À On 10 March, the United States announced the suspension, for the remainder of 1995, of international military education and training (IMET) programs for Guatemalan military personnel, in part due to the lack of substantial progress on the Myrna Mack and other human rights cases.

À In mid-April 1995, Helen Mack met with senior State Department officials and requested that the United States make available to her information on the Guatemalan military that might aid in the prosecution of the masterminds of her sisters murder.[State 93283, 17APR95, C] (CONF)

CC:

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